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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,206	06/26/2001	Nigel D. Atherton	PHARMA-131	9337
24999	7590	07/12/2004	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, PC 2200 CLARENDON BLVD SUITE 1400 ARLINGTON, VA 22201			PAK, JOHN D	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,206

Applicant(s)

ATHERTON ET AL.

Examiner

JOHN D PAK

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-19,22-24 and 26-55 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,7,8,10-19,26-32,36-40,42-47 and 49-55 is/are allowed.
- 6) ☒ Claim(s) 9,23,24,34,35,41 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claims 1-2, 7-19, 22-24, 26-55 are pending in this application.

Claims 22 and 33 stand withdrawn as being directed to non-elected subject matter. Cancellation of the non-elected claims is suggested. Claims 1-2, 7-9, 23-24, 26-32 and 34-55 will presently be examined.

Claims 1-2, 7-8, 10-19, 26-32, 36-40, 42-47 and 49-55 are allowed.

Claim 9, 23-24, 34-35, 41 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites "chelates and derivatives thereof." This makes the claim indefinite and unclear because it cannot be determined what the metes and bounds of this genus of substances are. What is intended by "derivatives," and how much "derivation" is encompassed? Claim 9 is therefore indefinite.

Claim 9 contains a misspelling, "absorbants" (emphasis added). It should be --- absorbents --- .

Claim 23 was not properly amended – the term "treat" is missing at line 2, after "manage or". Claim 34 is included here because it depends on claim 23 without correcting the deficiency of claim 23.

Claim 24 is confusing in that it is directed to a method for activating osteoblastic differentiation, but the last phrase recites, "optionally activating osteoblastic

differentiation." Claim 35 is included here because it depends on claim 24 without correcting the deficiency of claim 24.

Claim 41 contains a misspelling, "redodelling". There should be only one "l".

Claim 48 lacks antecedent basis for "said human." Change to "said mammal" is suggested.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620, effective February 3, 2004**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Thurman Page, can be reached on (571)272-0602, effective February 3, 2004.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.



JOHN PAK
PRIMARY EXAMINER
GROUP 1200